IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 17TH OCTOBER 2006 / 25TH ASWINA 1928

Bail Appl..No. 6229 of 2006

CRMP.5503/2006 of J.M.F.C.-II, ERNAKULAM
CRIME NO.1066/2006 CENTRAL POLICE STATION, ERNAKULAM

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APPLICANT/ACCUSED

B.M.ABDUL RAHMAN @ BECHU RAHMAN,
S/O.LATE B.AHAMED KUNCHI,
NO.9, "KHAIMA", MAVELIPURAM COLONY,
KAKKANAD, KOCHI.

BY ADV. SRI.P.VIJAYA BHANU
SRI.P.M.RAFIQ

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING THE C.I. OF POLICE,
CENTRAL POLICE STATION, ERNAKULAM.

BY D.G.P. SRI P.G. THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 6229/2006

DATED THIS THE 17TH DAY OF OCTOBER, 2006

O R D E R

The petitioner is the fourth accused in crime No.1066/2006 of Central Police Station, Ernakulam. The offence alleged against the petitioner and eleven others are under Sections 120B, 115, 216A, 412 and 395 IPC.

2. The petitioner was directed to surrender before the Investigating Officer on 3.10.2006, as per the order in B.A.No.5317/2006. Accordingly the petitioner surrendered and he was proceeded against by the Investigating Officer, as directed by this Court in the above said order, dated 19.9.2006. The petitioner, on production before the Judicial Magistrate of First Class-II, Ernakulam, was given to police custody and the police had occasion to interrogate him.

3. The learned Director General of Prosecution submits that the petitioner had made disclosure statements on various facts, which the Investigating Officer needs to further verify, for establishing the case

against the petitioner and the other accused. Therefore, the learned Prosecutor opposed the granting of the bail to the petitioner on the grounds, inter alia, that the petitioner is a person having various contacts, including the underworld persons, and he is very influential. Basing on the disclosure statements made by him, recoveries are yet to be effected on different materials, including the camera which was used for taking naked photographs of the complainant and another woman. However, submission of the prosecutor is that accused Nos. 8 and 9 are absconding and the camera is to be recovered from them. It is further submitted by the prosecutor that various facts disclosed by him are yet to be ascertained and the investigation, particularly with regard to the petitioner, is at a premature stage. Therefore, it is submitted by the prosecutor that the petitioner being a person, who cannot easily be brought to the arms of the law, because of his influence and his ability to hide himself, bail may not be granted at this stage, as the test including the scientific test,

required to be carried out on him, are at the initial stages.

4. The counsel for the petitioner however, submits that the petitioner had obeyed the directions given by this Court and he had already been questioned by the police. Therefore, no further requirements of keeping him in judicial custody, is warranted. The counsel also undertakes that the petitioner would be available as and when required for the purposes, conducting the scientific tests.

5. I have gone through not only the facts and the materials that are available on record. As submitted by the counsel for the petitioner, he had surrendered on 3.10.2006. He had been questioned by the police in custody, as ordered by the Judicial Magistrate of First Class-II, Ernakulam. The petition filed by the prosecution for the permission to put the petitioner to various scientific test have been dismissed, on the ground that no such permission is required from the Magistrate Court.

6. The learned Director General of Prosecution expresses an apprehension about the legality of the order and the intention of the State to take up the matter before the High Court of Kerala, by way of a revision. It is also, however, brought to my notice that if the petitioner is released at this stage, it would adversely affect the various stages of the investigation, being conducted by the police officials in relation to the persons, who had already been arrested and yet to be arrested, though some recovery had been effected to an extent, at the instance of the petitioner. The materials available show that there are many matters that are to be clarified, basing on the disclosure statements of the petitioner and the recovery made.

7. In such circumstances, without expressing any opinion on other facts that are placed before me regarding the conduct of the petitioner and his utterances to the press, prior to his surrender, with which the Court is not concerned during the disposal of this petition, so far as that does not affect the judicial

decisions, I am only of the view that the release of the petitioner, at this crucial investigation stage, would be against the interest of the prosecution at large. Therefore, I am not inclined to grant bail to the petitioner at this stage.

The prayer of the petitioner is therefore, dismissed.

J.M.JAMES
JUDGE

mrcs